

Remarks/Arguments:

Claims 6, 7, and 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4, 899,888 (Shawler) in view of U.S. Patent Nos. 6,899,946 (Geary) and 3,943,572 (Aileo). The Examiner has indicated that Applicant's declaration of January 21, 2008 is insufficient to overcome the above rejections.

Applicant sincerely thanks the Examiner for the highly productive Interview of September 18, 2008. During the interview, Applicant presented two amended versions of claim 6 along with supporting commentary for the amendments. The first version recited that each stackable shock absorbent spacer be inserted between one of the internal sidewalls and the laptop computer, while the second version recited that each stackable shock absorbent spacer lie substantially parallel to a portion of one of the side walls, that portion lying between the junctions of that side wall with other side walls, resulting in the corners of the carrying case being free of spacers. No agreement was reached on the first amended version of claim 6. Agreement was reached, however, with respect to the second amended version, which the Examiner indicated appears to overcome the prior art of record, subject to further search and/or consideration.

In light of the Interview summarized above, claim 6 has been amended to correspond to the second amended version, reciting additional limitations to better distinguish over the prior art. Support for the contents being a laptop computer is found at paragraph 14, line 3 of the description. Each spacer "lying substantially parallel to a portion of one of said side walls, said portion beginning distal to the junction between a first side wall and a second side wall, and terminating prior to the junction between said first side wall and a third side wall" is clearly shown in Figures 2 and 3, and described at paragraph 16, lines 9-10 of the description.

Applicant respectfully submits that Shawler does not disclose or suggest the feature of "each of said spacers lying substantially parallel to a portion of one of said side walls, said portion beginning distal to the junction between a first side wall and a second side wall, and terminating prior to the junction between said first side wall and a third side wall" as recited in amended claim 6. Shawler discloses a container with L-shaped inserts for adaptation of the internal space of the container to the exterior dimensions of fragile contents. It is specifically taught by Shawler that the spacers be inserted at the corners of the container's side walls, as shown in Figure 1 and described at col. 3, ll. 54-57.

Thus, Shawler cannot teach the above-recited claim feature, since the corner inserts must necessarily cross the junction between a first side wall and a second side wall in order to be corner inserts. Further, as the corner inserts described by Shawler are L-shaped, they must include substantially perpendicular arms, and therefore cannot lie substantially parallel to a portion of one side wall – part of the corner insert will always be at an angle other than substantially parallel to the side wall. Shawler therefore teaches away from the above-recited claim feature, as his L-shaped inserts are mutually exclusive with spacers "lying substantially parallel to a portion of one of said side walls, said portion beginning distal to the junction between a first side wall and a second side wall, and terminating prior to the junction between said first side wall and a third side wall".

Geary and Aileo, applied to Shawler, are of little assistance in rendering the present invention obvious. In particular, Geary, being directed to L-shaped restraints applied to the outside of articles, does not disclose or suggest "a plurality of internal side walls", "a plurality of stackable shock-absorbent spacers", or "each of said spacers lying substantially parallel to a portion of one

of said side walls, said portion beginning distal to the junction between a first side wall and a second side wall, and terminating prior to the junction between said first side wall and a third side wall". Even if applied to Shawler, therefore, Geary would not lead a person skilled in the art to the subject matter defined by claim 6, as Geary does not disclose or suggest the claim features that Shawler lacks.

With regard to Aileo, a helmet retention system including ear cups is described. Aileo does not disclose, and would clearly be unsuitable for the protection of, a laptop computer. Further, Aileo does not disclose "a plurality of internal side walls" – rather, the inside of Aileo's helmet is defined by one continuous surface). In addition, Aileo does not provide stackable shock absorbent spacers, "each of said spacers lying substantially parallel to a portion of one of said side walls, said portion beginning distal to the junction between a first side wall and a second side wall, and terminating prior to the junction between said first side wall and a third side wall". Aileo's ear cups are intended to be placed over the ears, and their position is thus dictated by human anatomy. No consideration is given to junctions between side walls or to positioning the ear cups in relation to any such junctions, and a person skilled in the art would not be motivated by Aileo to make any similar consideration. Like Geary, Aileo therefore cannot provide teaching that would lead a person skilled in the art to apply to Shawler the features that it lacks, because Aileo also lacks those features.

Conclusion

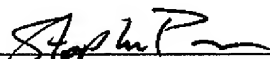
Applicant believes that this application is now in condition for allowance. To the extent that any issues remain to be resolved, however, Applicant requests that the Examiner contact the undersigned to resolve these issues.

The Commissioner is authorized to charge the extension of time fees to the Credit Card as shown in the Credit Card Payment Form.

The Commissioner is also authorized to charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 50-3750.

Date: October 2, 2008

Respectfully submitted,



Stephen Perry, Reg. No. 32107

PERRY + CURRIER INC.
1300 Yonge Street, Suite 500
Toronto, Ontario
CANADA, M4T 1X3
(416) 920-8170